

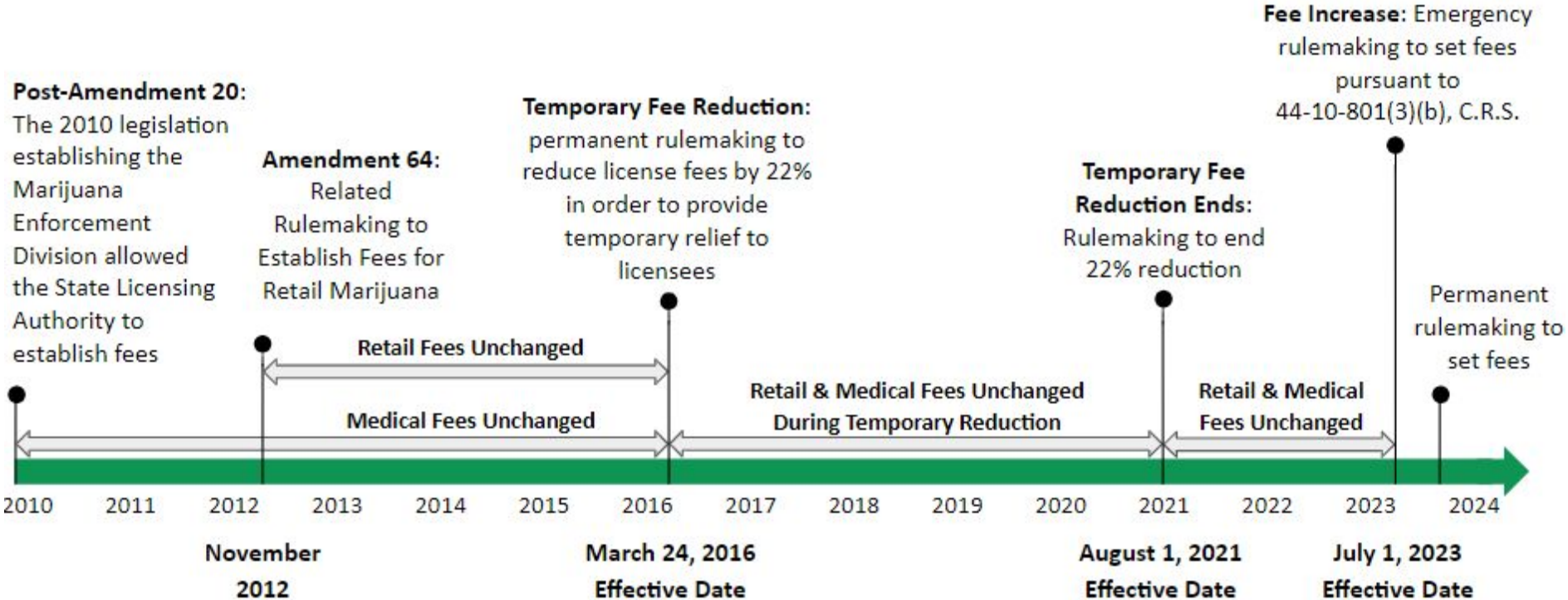
Department of Revenue Marijuana Enforcement Division

MED Fee Setting Overview
June 5, 2023
Stakeholder Meeting



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Timeline of Fee Modifications



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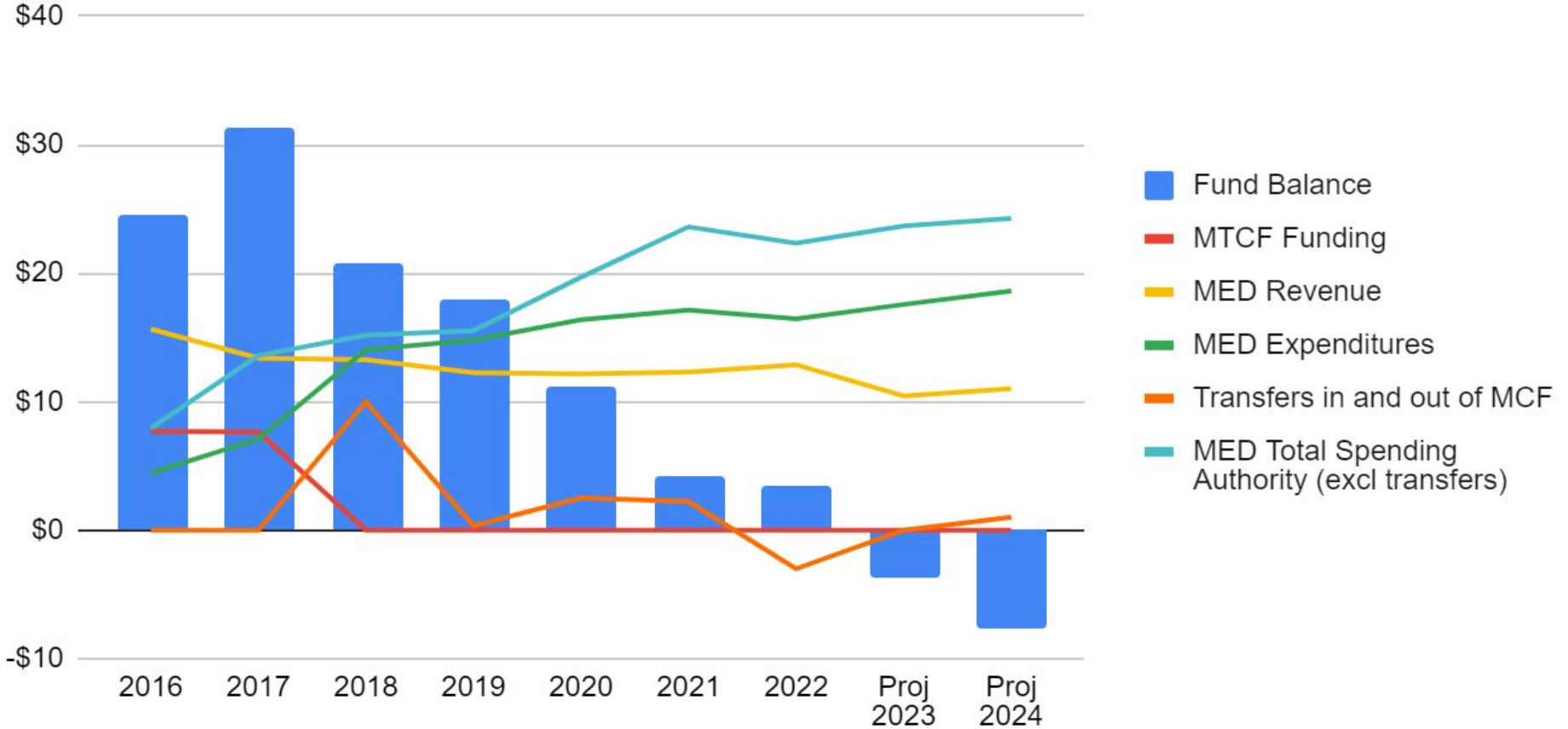
MED Fee Setting: Background / History

- MED does not currently receive funds from Marijuana Tax Cash Fund (MTCF)
- A large fund balance has covered increased costs allowing for MED to not implement fee increases
- General Assembly has transferred money out of the Marijuana Cash Fund (MCF) to support other programs
- MCF went negative in FY 2022-23, and is not sustainable under current revenue and expenditures
- Fees set in early 2012 are the same in early 2023. From 2012 through 2023, inflation was ~34% according to the Bureau of Labor Statistics.



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MED Funding



Approach to Fee Setting

What steps did MED take?

- MED Budget & Operations Review
- Agency Response & Actions to Budget Shortfall
- Comparison to Other States with Similar Regulatory Programs
- Evaluation of license privileges that drive workload and resource use
- Consideration of economic impacts
- Evaluation of statutory compliance



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Agency Response

- Intentional vacancies (51 as of May 2023)
 - ~\$3.7 million of cost savings
- Reduction of space
 - Lakewood Office significantly downsized (2020)
 - CO Springs Office (June 2022)
 - Longmont Office (underway)
- Identification of other funding sources
 - Request for MTCF (not approved)
 - Insolvency Fund (loan - eligible)
 - Reversion (approved under SB23-199)
 - Maximizing allowable use of other funding sources in DOR



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MED Budget / Operations Overview

FTE

- 105 Currently Filled (of 156 allocated)

FY 2022-23 Marijuana Cash Fund

- Spending Authority: \$23.5 million
- Projected Revenue: \$10.7 million
- Projected Expenditures: \$16.9 million

FY 2023-24

- Projected Revenue (Post-Fee Increase): \$15.5 million
- Projected Expenditures: \$17.9 million



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Comparisons - Other States

State	Expenditure/ License	FTE/ License
Mass.	\$15,438	0.092
Michigan	\$5,841	0.048
Oregon	\$6,599	0.045
Washington	\$7,200	0.056
Colorado (funded at \$19m) ¹	\$6,616	0.038
Colorado (funded at \$11m, no fee increase)	\$3,909	0.022

¹ Expenditure excludes the \$1 million loan payback



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Statutory Requirements

The state licensing authority ***shall*** establish fees for processing the following types of applications, licenses, notices, or reports required to be submitted to the state licensing authority.¹

The amounts of such fees, when added to the other fees transferred to the fund pursuant to this section, ***must reflect the actual direct and indirect costs of the state licensing authority in the administration and enforcement of this article 10*** so that the fees avoid exceeding the statutory limit on uncommitted reserves in administrative agency cash funds as set forth in section 24-75-402 (3).²

At least annually, the state licensing authority shall review the amounts of the fees and, if necessary, adjust the amounts to reflect the direct and indirect costs of the state licensing authority.³



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¹ 44-10-801(3)(a).

² 44-10-801(3)(b).

³ 44-10-801(3)(d).

Q&A

(related to historic and current funding)



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Fees Walkthrough (Details Follow)

- **All fees increasing by ~8%, with four exceptions:**
 - Rounded to the nearest \$50 for applicant and MED simplicity
- **Exception 1:** Approved Social Equity licensees are eligible for a reduction on select licenses/permits for the initial and first renewal fee
- **Exception 2:** Employee license: \$150
- **Exception 3:** Levels
 - Matches fees to complexity and increased workload
- **Exception 4:** One new fee / category: Reduced Testing Allowance



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Social Equity Program Fees

Social Equity Program applicants and licensees pay a reduced percentage of the (new) standard fee for certain applications.

- Accelerator License and Accelerator-Endorsement Holder applications will continue to carry no fee.



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Social Equity Program Fees

(cont)

Proposed Reduction for Approved Social Equity Licensees:

- Reduced fees will apply to:
 - New Business application
 - Business Renewal application
 - Owner Individual / Owner Entity License Renewal application



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Social Equity Program Fees

Before and After

Application Type	Historical Fee New Renewal	Proposed Fee New Renewal
Retail Transporter (2 year)	\$5,868 \$5,668	\$1,600 \$1,550
Retail Cultivation	\$4,330 \$2,130	\$1,200 \$600
Hospitality Business	\$1,720 \$1,215	\$450 \$350
Products Manufacturer	\$4,330 \$2,130	\$1,200 \$600
Delivery Permit	\$4,880 \$2,440	\$1,300 \$650



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Employee License Fees

Will be restored to previous fee: \$150¹

Conditional Employee License fees will not change.



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¹ The Employee License fee (formerly Occupational License fee) was reduced from \$150 to \$100 in 2016.

Business License Fees

Unless otherwise noted, business license fees will increase by ~8% (consideration of inflation rate).

Example:

- New Retail Marijuana Store License:
 - Historical Fee: \$4,940
 - Proposed Fee: \$5,350
 - Proposed SE Fee: \$1,350
- Retail Marijuana Store License Renewal:
 - Historical Fee: \$2,130
 - Proposed Fee: \$2,300
 - Proposed SE Fee: \$600

Example:

- New Retail Marijuana Transporter License:
 - Historical Fee: \$5,868
 - Proposed Fee: \$6,350
 - Proposed SE Fee: \$1,600
- Retail Marijuana Transporter License Renewal (every two years):
 - Historical Fee: \$5,668
 - Proposed Fee: \$6,100
 - Proposed SE Fee: \$1,550



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Ownership Complexity

For new business licenses, owner entity license finding of suitability, and changes to ownership structure, the fee will increase based on the ownership complexity:

Ownership Levels:

- Level 1 - One (1) to four (4) Controlling Beneficial Owners and/or Owner Entities
- Level 2 - Five (5) to nine (9) Controlling Beneficial Owners and/or Owner Entities
- Level 3 - Ten (10) or more Controlling Beneficial Owners and/or Owner Entities

Example:

- Owner Entity Finding of Suitability - Level 1: \$850
 - Owner Entity Finding of Suitability - Level 2: \$1,300
 - Owner Entity Finding of Suitability - Level 3: \$1,700
- Level 3 fee is twice the amount of Level 1 fee (Level 2 is the midpoint between the fees)
- Allows the fee to be correlated to the work required due to more or less complex structures



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RTA Certification Fee

- **Background:**

- Reduced Testing Allowance (RTA) provisions allow licensees to significantly reduce the number of tests required to be completed each year.
- Statewide, licensees produce an average of five batches per week and the average cost to test each batch is \$400. Licensees creating five batches per week save approx. \$100K in testing costs each year.
- RTA provisions in rule have required significant Division resources to implement, monitor, and regulate. This includes:
 - Investigative and Analysis resources to monitor compliance with RTA and follow-up on related product safety issues, some of which lead to Health and Safety Advisories.
 - Approx. 180 investigations per year related to testing and product safety
 - Administrative action and legal services resources to follow-up on non-compliance.



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Q&A

(related to proposed fees)



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